

Forward Plan reference number: Not applicable

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| <b>Report title: Extension To Funding for Adult Social Care: COVID 19 Response Domiciliary Care, Supported Living, Independent Living and Direct Payments</b> |                      |
| <b>Report to:</b> Nick Presmeg - Executive Director for Adult Social Care   |                      |
| <b>Report author:</b> Steve Ede, Head of Procurement  |                      |
| <b>Date:</b> 22 September 2020  | <b>For:</b> Decision |
| <b>Enquiries to:</b> Claire Felton, Category and Supplier Relationship Specialist   |                      |
| <b>County Divisions affected:</b> All Essex   |                      |

## 1. Purpose of Report

- 1.1 To agree to extend the time period for funding to be available to Adult Social Care for Domiciliary care, Supported Living, Independent Living and Direct Payments in order to respond to COVID-19 crisis. Funding was originally made available in a decision taken by ECC in March (FP/654/03/20),

## 2. Recommendation

- 2.1 That the period for which the Council will continue to support people on direct payment be extended to 3<sup>rd</sup> April 2021 and that this is funded from the remaining balance of the £2.5m funding from decision FP/654/03/20,
- 2.2 That the period that the Council will continue to support Domiciliary Care and Supported Living providers in providing additional support to service users, be extended to 3 April 2021 (current extension period ends 30 September 2020) and that this is funded from the balance of £1.4m funding from decision FP/654/03/20
- 2.3 That the provisions made by the Council in March 2020, to enable providers and those that commission their own care, to vary their individual care packages by 25%, may continue until 3 April 2021.

## 3. Summary of Issue

### Context

- 3.1 Several urgent decisions were taken in Adult Social Care at the start of the crisis in order to ensure funds were in place to respond effectively to the COVID-19 pandemic. Due to multiple reasons, the expenditure incurred against many of the early decisions has so far not been at the level predicted when the recommendations were first proposed. Pursuant to a decision in July 2020 (FP-748-07-20), the support offered for people of Direct Payments and to Domiciliary and Supported Living Providers are due to come to an end 30

September 2020. Pressures remain within Domiciliary care, supported living and services using direct payments.

- 3.2 As we move into the second wave of the pandemic, a sharp increase in infections is predicted and whilst there is still uncertainty around the future level of demand and requirements, it is still the case that support to the care market will need to continue over the winter period. It is proposed that the time period for support is extended to offer continued support if and when it is required.
- 3.3 In July 2020, (FP-748-07-20), authority was delegated to Executive Director for Adult Social Care to extend the arrangements beyond 30<sup>th</sup> September 2020 in consultation with the Monitoring Officer and S151 Officer and it is recommended that the facilities are still required and both the Monitoring Officer and S151 Officer have been consulted.
- 3.4 In March 2020, an urgent decision providing extra support to the domiciliary care sector had set a time restraint of 4 months to sustain support to those that manage their own personal budgets and to allow homecare providers to vary individual care packages by up to 25%. Furthermore, in July 2020 a decision, FP-748-07-20, was made to extend these arrangements for a period of 11 weeks up to 30 September. The proposal is to extend these arrangements again, to 3 April 2021 but within the existing funding envelope given that those full funds have not yet been used by the market.

#### 4. Options

##### 4.1 Do Nothing

The Council has received £73m as un-ringfenced grants from MHCLG with an expectation that a large proportion be deployed in meeting increased demand for adult social care and additional support to social care providers who are responding to COVID-19. If not reviewed, the funding commitments made in early urgent decisions will fall short of their original intention due to their limitations, risking inadequate support to vulnerable residents, including through multiple providers potentially exiting the market, as well as reputational damage to the Council.

##### 4.2 **Redefine the scope of previous urgent decision, FP-654-03-20, in order to ensure a continued effective response to the COVID-19 crisis (recommended)**

| Original Decision  | Forward plan reference | Value | Revision of purpose  |
|--|------------------------|-------|--|
| <u>Homecare</u><br>Direct Payments,<br>support for 4 months. | FP/654/03/20           | £2.5m | Extend time period to 3 April 2021. Contain within existing budget envelope. |

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| Domiciliary care including support living, flex packages up to 25% without approval where needed for 4 months. |  | £1.4m | Extend time period to 3 April 2021. Contain within existing budget envelope. |
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## 5. Financial Implications

- 5.1 The recommendations are contained within the original budget envelope set in the urgent decision. If extending timelines means that costs ramp up above the envelope the offer will either be withdrawn earlier than set out or another decision will be required to access more funding to support. Spend to date is lower than originally anticipated, due to other government support available to providers as well as demand being much reduced compared with the forecast assumptions earlier in the pandemic.
- 5.2 There could be a risk of open-endedness if the financial challenges during the COVID-19 period continue beyond 3 April 2021 and expectation has been set that the same level of support will continue to be available. This will mean this support has been provided for over a year. Continual communications with the market will be required to make sure an end date is clear.

## 6 Legal Implications

- 6.1 it is arguable that the decision to maintain the exceptional spending is justified by regulation 72(1)(c) of the Public Contracts Regulations 2015 given the unforeseen nature of the level of cases at this time. A second wave was not anticipated so early.
- 6.2 The Council will need to ensure that where additional funding is provided, that this is correctly and accurately documents in legally binding agreements.
- 6.3 It may be that schemes funded from this decision could constitute state aid although it is justified as being in response to the Covid-19 Pandemic.

## 7 Equality and Diversity Implications

- 7.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful.
  - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.

(c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

7.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

7.3 An EQiA has not been completed for this decision but no elements of it are thought to adversely affect anyone with the protected characteristics.

## 8. List of Appendices

None

## 9. List of Background Papers

None

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| <b>I approve the recommendations set out above for the reasons set out in the report.</b><br><br><b>Nick Presmeg, Executive Director of Adult Social Care</b> | <b>Date</b> |
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### In consultation with:

| <b>Role</b>  | <b>Date</b>     |
|--|-----------------|
| <b>Head of Finance, Adults</b><br><b>Laura Davis-Hughes</b>                      | 23 Sept<br>2020 |
| <b>Laura Edwards, Legal Services Manager on behalf of the Monitoring Officer</b> | 24 Sept<br>2020 |